

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

GAYLORD STEVENS, )  
v. )  
Plaintiff, )  
v. )  
MUSKOGEE, OKLAHOMA ANIMAL )  
CONTROL, et al., )  
Defendants. )

Case No. CIV-16-531-Raw

## **ORDER**

Before the court is the motion of defendants Lindale Veterinary Clinic (“Clinic”) and Chris Gilbreath to dismiss. Plaintiff, appearing *pro se*, alleges multiple claims pursuant to 42 U.S.C. §1983 against multiple defendants. Plaintiff was convicted in Texas state court for possession of child pornography, and those convictions were recently affirmed. *Stevens v. State*, 2017 WL 411382 (Tex.App. - Tyler 2017). Initially, plaintiff was arrested for cruelty to animals, and six horses that were determined to be in poor condition were moved “to another location for treatment.” *Id.* at \*1. It is not perfectly clear, but it appears the horses were transferred to movants’ facility.

Clinic is an animal hospital in Lindale, Texas and Gilbreath is a veterinary physician employed by the Clinic. Plaintiff alleges in Claim Ten that defendants received multiple requests to examine the subject horses. Plaintiff alleges in Claim Seventeen that Gilbreath

misdiagnosed the horses as neglected. Plaintiff alleges in Claim Thirty that Gilbreath caused one horse's death through his "malpractice." Movants' conduct took place on or about December 24, 2013 and some days following.

Movants contend that the statute of limitations bars plaintiff's claims. The court agrees. Claims under §1983 are subject to Oklahoma's two-year statute of limitations for actions "for injury to the rights of another." *See Kripp v. Luton*, 466 F.3d 1171, 1174-75 (10<sup>th</sup> Cir.2006). This action was filed December 6, 2016, outside the statute of limitations period. Dismissal is appropriate.

Also, for the reasons stated in this court's order granting the motion to dismiss of defendant James Cowart, plaintiff has failed to establish a *prima facie* showing of personal jurisdiction over the movants. Dismissal is appropriate on this alternative ground as well.

It is the order of the court that the motion to dismiss (#83) is hereby granted. Lindale Veterinary Clinic and Chris Gilbreath are dismissed as party defendants.

**IT IS SO ORDERED** this 18th day of AUGUST, 2017.



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**RONALD A. WHITE**  
**UNITED STATES DISTRICT JUDGE**